

Statement of Vincent A. Gierer, Jr.

UST Inc.

Before the

Committee on Commerce, Science, and Transportation

United States Senate

February 24, 1998

UST appreciates this opportunity to address the Committee about the June 20, 1997 Proposed Resolution. I believe that the Proposed Resolution, if enacted into law by Congress, will provide a truly comprehensive approach to resolving the multitude of competing interests that are implicated in the controversy that has long surrounded tobacco products in this country. I also firmly believe that addressing the controversy in a piecemeal fashion, without addressing all the components embodied in the Proposed Resolution, may not achieve the shared goal of reducing youth access to tobacco products nor achieve

other public health objectives.

UST's principal subsidiary, United States Tobacco Company, is a signatory to the Proposed Resolution. United States Tobacco Company does not manufacture or market cigarettes; through its subsidiaries, it manufactures and markets smokeless tobacco products -- principally moist snuff under the brand names of Copenhagen and Skoal. Of the overall market for tobacco products, smokeless tobacco comprises a very small segment. For example, in 1997, smokeless tobacco constituted approximately 4.7% of the tobacco market.

Tobacco is one of the most controversial issues of our time. Historically, no other product has been the subject of so much political activity, popular concern and debate. Indeed, by the early 1900s, more than a dozen states had outlawed cigarettes (although later repealed), and groups such as the No-Tobacco League of America were advocating a constitutional amendment to

prohibit the sale of cigarettes throughout the country. Even at that time, however, concerns were raised that such crusades were running roughshod over individual liberties.

The tension between those individual liberties and governmental intervention into the lives of adult Americans has continued to be the fundamental point of contention in determining the need for and extent of regulating tobacco use in our society. That debate has resulted in a delicate balance between the government's interest in highlighting certain health risks associated with tobacco and discouraging use by minors on the one hand, and the importance of tobacco to the national economy and preserving individual liberties, specifically the right of adults to choose to use tobacco products, on the other.

Over the years, Congressional legislation regulating the advertising, marketing and promotion of tobacco products, while still allowing them to be marketed for adult enjoyment, most

clearly reflects the nature of the debate and the compromises forged to preserve the balance between varying viewpoints and interests.

One of the core issues that brings us all here today is shared concern over underage use of tobacco products. United States Tobacco Company is not a newcomer to this issue.

In 1996, in an effort to address that concern, United States Tobacco Company responded to President Clinton's challenge by joining Philip Morris in proposing comprehensive Federal legislation to restrict access to tobacco products by minors. Consistent with the historical compromises forged regarding tobacco in our society, our proposal left policy decisions of how and under what circumstances tobacco products should be regulated to the Congress. We believed our legislative proposal was a reasonable and rational alternative to lengthy regulatory proceedings and years of litigation and at the time President

Clinton thanked both companies for coming forward with the proposal.

I believe that the country again is at a crossroads with regard to the tobacco issue. The controversy that has surrounded tobacco products over the preceding decades has provided no positive outcome for anyone. It is time to put the controversy behind us. It is time to work together and reach a comprehensive national solution. The Proposed Resolution reflects such a solution. Any viable solution must take into account all of the various components that are included in the Proposed Resolution, including a regime to ensure that the industry will be in a position of financial stability to ensure that funds will be available for the programs that Congress deems necessary to implement its policy decisions.

Under the Proposed Resolution, the tobacco industry has agreed to totally reform and restructure how tobacco products

are manufactured, marketed and distributed in the United States to achieve the stated public health objectives and begin a new chapter for the industry, from a social, political and regulatory perspective, with a degree of predictability and stability in the future.

Any comprehensive solution like the Proposed Resolution is inherently a delicately balanced compromise where all parties must make concessions. United States Tobacco Company has, in the Proposed Resolution, agreed to a number of significant concessions on legislative and regulatory issues that conflict with long-held beliefs and positions. In fact, the regulatory program contained in the Proposed Resolution goes well beyond the rule originally promulgated by the Food and Drug Administration that has been challenged on a number of grounds, including the First Amendment. The Proposed Resolution as a whole will impose many difficult demands on United States Tobacco Company as well as the entire tobacco industry. Despite the substantial burdens and

constraints such a regulatory program would impose, United States Tobacco Company recognizes that it must accept them in the interest of a national solution.

The fundamental public policy issues at the heart of the Proposed Resolution should be addressed in a comprehensive, deliberative fashion. As such, it is the Congress -- rather than the judicial branch by way of the current "litigation lottery" with many players but few "winners" -- that should make those public policy decisions.

The Proposed Resolution was the result of prolonged and intense arms-length negotiations among a broad range of constituencies. We believe that the Proposed Resolution represents a fair balance of the competing views surrounding tobacco products. We, therefore, recommend to the Committee the Proposed Resolution as the vehicle for a national comprehensive solution of this controversial issue.